

AMENDED IN SENATE MARCH 29, 2000

**SENATE BILL**

**No. 2086**

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**Introduced by Senator Bowen**

February 25, 2000

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An act to amend ~~Section 30233~~ *Sections 30233 and 30620* of the Public Resources Code, relating to marine environment, *and making an appropriation therefor.*

LEGISLATIVE COUNSEL'S DIGEST

SB 2086, as amended, Bowen. Diking, filling, and dredging.

Existing law permits the diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes if there is no feasible less environmentally damaging alternative and if feasible mitigation measures have been provided to minimize adverse environmental effects. Existing law limits diking, filling, or dredging to certain situations, including entrance channels for new or expanded boating facilities in wetland areas and, in a degraded wetland, for boating facilities if a substantial portion of the degraded wetland is restored and maintained as a biologically productive wetland. Under that provision, existing law limits the size of the wetland area used for boating facilities to 25% of the degraded wetland.

This bill, instead, would limit the size of the wetland area used for boating facilities to 20% of the degraded wetland.

*Existing law requires the California Coastal Commission to adopt, among other things, interpretive guidelines designed to assist local governments, the commission, and persons subject to the development control procedures of the*

*California Coastal Act of 1976 in determining how the policies of that act are to be applied in the coastal zone prior to the certification of local coastal programs.*

*This bill would require the commission, by July 1, 2001, to revise and update the interpretive guidelines in order to ensure that the guidelines are consistent with the act, and would appropriate \$50,000 to the commission from the Coastal Access Account in the State Coastal Conservancy Fund for that purpose.*

Vote: majority. Appropriation: ~~no~~ yes. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 30233 of the Public Resources  
2 Code is amended to read:

3 30233. (a) The diking, filling, or dredging of open  
4 coastal waters, wetlands, estuaries, and lakes shall be  
5 permitted in accordance with other applicable provisions  
6 of this division if there is no feasible less environmentally  
7 damaging alternative and if feasible mitigation measures  
8 have been provided to minimize adverse environmental  
9 effects, and shall be limited to the following:

10 (1) New or expanded port, energy, and  
11 coastal-dependent industrial facilities, including  
12 commercial fishing facilities.

13 (2) Maintaining existing, or restoring previously  
14 dredged, depths in existing navigational channels,  
15 turning basins, vessel berthing and mooring areas, and  
16 boat launching ramps.

17 (3) In wetland areas only, entrance channels for new  
18 or expanded boating facilities; and in a degraded wetland,  
19 identified by the Department of Fish and Game pursuant  
20 to subdivision (b) of Section 30411, for boating facilities  
21 if, in conjunction with the boating facilities, a substantial  
22 portion of the degraded wetland is restored and  
23 maintained as a biologically productive wetland. The size  
24 of the wetland area used for boating facilities, including  
25 berthing space, turning basins, necessary navigation



1 channels, and any necessary support service facilities  
2 shall not exceed 20 percent of the degraded wetland.

3 (4) In open coastal waters, other than wetlands,  
4 including streams, estuaries, and lakes, new or expanded  
5 boating facilities and the placement of structural pilings  
6 for public recreational piers that provide public access  
7 and recreational opportunities.

8 (5) Incidental public service purposes, including, but  
9 not limited to, burying cables and pipes or inspection of  
10 piers and maintenance of existing intake and outfall lines.

11 (6) Mineral extraction, including sand for restoring  
12 beaches, except in environmentally sensitive areas.

13 (7) Restoration purposes.

14 (8) Nature study, aquaculture, or similar  
15 resource-dependent activities.

16 (b) Dredging and spoils disposal shall be planned and  
17 carried out to avoid significant disruption to marine and  
18 wildlife habitats and water circulation. Dredge spoils  
19 suitable for beach replenishment should be transported  
20 for those purposes to appropriate beaches or into suitable  
21 longshore current systems.

22 (c) In addition to the other provisions of this section,  
23 diking, filling, or dredging in existing estuaries and  
24 wetlands shall maintain or enhance the functional  
25 capacity of the wetland or estuary. Any alteration of  
26 coastal wetlands identified by the Department of Fish  
27 and Game, including, but not limited to, the 19 coastal  
28 wetlands identified in its report entitled, "Acquisition  
29 Priorities for the Coastal Wetlands of California," shall be  
30 limited to very minor incidental public facilities,  
31 restorative measures, nature study, commercial fishing  
32 facilities in Bodega Bay, and development in already  
33 developed parts of south San Diego Bay, if otherwise in  
34 accordance with this division.

35 For the purposes of this section, "commercial fishing  
36 facilities in Bodega Bay" means that not less than 80  
37 percent of all boating facilities proposed to be developed  
38 or improved, if the improvement would create additional  
39 berths in Bodega Bay, shall be designed and used for  
40 commercial fishing activities.

1 (d) Erosion control and flood control facilities  
2 constructed on watercourses can impede the movement  
3 of sediment and nutrients that would otherwise be  
4 carried by storm runoff into coastal waters. To facilitate  
5 the continued delivery of these sediments to the littoral  
6 zone, whenever feasible, the material removed from  
7 these facilities may be placed at appropriate points on the  
8 shoreline in accordance with other applicable provisions  
9 of this division, if feasible mitigation measures have been  
10 provided to minimize adverse environmental effects.  
11 Aspects that shall be considered before issuing a coastal  
12 development permit for those purposes are the method  
13 of placement, time of year of placement, and sensitivity  
14 of the placement area.

15 *SEC. 2. Section 30620 of the Public Resources Code is*  
16 *amended to read:*

17 30620. (a) By January 30, 1977, the commission shall,  
18 consistent with this chapter, prepare interim procedures  
19 for the submission, review, and appeal of coastal  
20 development permit applications and of claims of  
21 exemption. These procedures shall include, but are not  
22 limited to, the following:

23 (1) Application and appeal forms.

24 (2) Reasonable provisions for notification to the  
25 commission and other interested persons of any action  
26 taken by a local government pursuant to this chapter, in  
27 sufficient detail to ensure that a preliminary review of  
28 that action for conformity with this chapter can be made.

29 (3) Interpretive guidelines designed to assist local  
30 governments, the commission, and persons subject to this  
31 chapter in determining how the policies of this division  
32 shall be applied in the coastal zone prior to the  
33 certification of local coastal programs. However, the  
34 guidelines shall not supersede, enlarge, or diminish the  
35 powers or authority of the commission or any other public  
36 agency.

37 (b) Not later than May 1, 1977, the commission shall,  
38 after public hearing, adopt permanent procedures that  
39 include the components specified in subdivision (a) and  
40 shall transmit a copy of those procedures to each local

1 government within the coastal zone and make them  
2 readily available to the public. The commission may  
3 thereafter, from time to time, and, except in cases of  
4 emergency, after public hearing, modify or adopt  
5 additional procedures or guidelines that the commission  
6 determines to be necessary to better carry out this  
7 division.

8 (c) *Not later than July 1, 2001, the commission shall*  
9 *revise and update the interpretive guidelines prepared*  
10 *pursuant to paragraph (3) of subdivision (a) in order to*  
11 *ensure that the guidelines are consistent with this*  
12 *division.*

13 (d) (1) The commission may require a reasonable  
14 filing fee and the reimbursement of expenses for the  
15 processing by the commission of any application for a  
16 coastal development permit under this division and,  
17 except for local coastal program submittals, for any other  
18 filing, including, but not limited to, a request for  
19 revocation, categorical exclusion, or boundary  
20 adjustment, submitted for review by the commission.

21 (2) Any coastal development permit fees collected by  
22 the commission under paragraph (1) shall be deposited  
23 in the Coastal Access Account, which is hereby created in  
24 the State Coastal Conservancy Fund. The money in the  
25 account shall be available, upon appropriation by the  
26 Legislature in the annual Budget Act, to the State Coastal  
27 Conservancy for grants to public agencies and private  
28 nonprofit entities or organizations for the development,  
29 maintenance, and operation of new or existing facilities  
30 that provide public access to the shoreline of the sea, as  
31 defined in Section 30115. Any grant funds that are not  
32 expended for those purposes shall revert to the account.  
33 Nothing in this paragraph authorizes an increase in fees  
34 or creates any new authority on the part of the  
35 commission.

36 ~~(d)~~

37 (e) With respect to any appeal of an action taken by a  
38 local government pursuant to Section 30602 or 30603, the  
39 executive director shall, within five working days of  
40 receipt of an appeal from any person other than members

1 of the commission or any public agency, determine  
2 whether the appeal is patently frivolous. If the executive  
3 director determines that an appeal is patently frivolous,  
4 the appeal shall not be filed unless a filing fee in the  
5 amount of three hundred dollars (\$300) is deposited with  
6 the commission within five working days of the receipt of  
7 the executive director's determination. If the commission  
8 subsequently finds that the appeal raises a substantial  
9 issue, the filing fee shall be refunded.

10 *SEC. 3. Notwithstanding subdivision (d) of Section*  
11 *30620, the sum of fifty thousand dollars (\$50,000) is hereby*  
12 *appropriated from the Coastal Access Account in the*  
13 *State Coastal Conservancy Fund to the California Coastal*  
14 *Commission for the purpose of complying with*  
15 *subdivision (c) of Section 30620 of the Public Resources*  
16 *Code.*

